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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands* – WT
Docket No. 03-66 -- **WRITTEN EX PARTE PRESENTATION**

Dear Ms. Dortch:

It has come to the attention of the National ITFS Association (NIA), the Catholic Television Network (CTN) and the Education Community that the proposed Report & Order prepared by the Wireless Telecommunications Bureau in the referenced docket contemplates a band plan for the 2500-2690 MHz band that departs materially from the band plan proposed by the Coalition of ITFS and commercial licensees/operators in the band. In particular, the plan proposes to take at least 12 MHz from existing licensees and give it over to commercial services.

NIA, CTN and the Education Community – collectively representing the majority of ITFS licensees in the United States and the educational community as a whole – strongly oppose the proposed WTB band plan and urge the Commission not to adopt it in the Report & Order.

We believe that the proposed WTB band plan is flawed in suggesting a reduction in channel widths in the lower and upper band segments, as the plan would no longer effectively accommodate flexible use of the band for both TDD and FDD technologies. The loss of spectrum by each ITFS licensee in the LBS/UBS, as well as the loss of the I band, would also result in a significant loss of capacity and educational value.

NIA, CTN and the Education Community believe that this effort to reallocate spectrum from ITFS to make it available to other users in this proceeding would violate the Administrative Procedure Act. NIA, CTN and the Education Community support the filing on May 25, 2004 of the Wireless Communications Association International, Inc. (WCA), which demonstrates that the WTB band plan contravenes Section 553 of the APA in that there has been no notice, and opportunity for comment, on the reallocation.

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As NIA, CTN and Education Community have noted in meetings with the Commission, there is no pressing need for creating new channels in the ITFS/MMDS band for auction to newcomers. WCA has also shown that there is a healthy and active secondary market already in operation in the band by leasing ITFS excess capacity and buying MMDS channels outright.

For these reasons, NIA, CTN and the Education Community urge the Commission to reject the WTB band plan.

Respectfully submitted,

THE NATIONAL ITFS ASSOCIATION CATHOLIC TELEVISION NETWORK

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Commissioner Kevin Martin
Commissioner Kathleen Q. Abernathy
Commissioner Michael Copps
Commissioner Jonathan Adelstein
John Muleta
Bryan Tramont
Sheryl Wilkerson
Samuel Feder
Jennifer Manner
Paul Margie
Barry Ohlson
Catherine Seidel
Joel Taubenblatt
John Schauble

The Education Community

American Association of Community Colleges (AACC)
American Association of School Administrators (AASA)
American Association of State Colleges and Universities (AASCU)
American Association of University Women (AAUW)
American Council on Education (ACE)
American Federation of Teachers (AFT)
Association of American Universities (AAU)
Association of Community College Trustees (ACCT)
Association of Educational Service Agencies (AESAs)
The Association of Jesuit Colleges and Universities (AJCU)
Association of Research Libraries (ARL)
California Community Colleges (CCC)
Central Dakota Telecommunications Consortium
Consortium for School Networking (COSN)
Council of Chief State School Officers (CCSSO)
Denver Public Schools (DPS)
EDUCAUSE
Florida Community College System
Huntsville City Schools Educational Television
International Society for Technology in Education (ISTE)
Kirkwood Community College
KRCB Television, Santa Rosa, California
National Alliance of Black School Educators (NABSE)
National Association of Independent Schools (NAIS)
National Association of State Universities & Land-Grant Colleges (NASULGC)
National Education Association (NEA)
National Education Knowledge Industry Association (NEKIA)
National Parent Teacher Association (PTA)
National Rural Education Association (NREA)
North Carolina Community Colleges
Rural School and Community Trust
The National Association of College and University Business Officers (NACUBO)
United States Distance Learning Association (USDLA)
University Continuing Education Association (UCEA)